

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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ERIN GURSSLIN,

Plaintiff,

Index No.

- against -

20-cv-6508

CITY OF ROCHESTER,

Defendants.

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Video Conference

November 1, 2022

2:36 p.m.

30(b)(6) DEPOSITION of LIEUTENANT PETER NIGRELLI,

Non-Party Witness, taken by Plaintiff, pursuant to

Article 31 of the Civil Practice Law and Rules of

Testimony, and Order, held at the above-noted time and

place, before Saige M. Porcelli, a Stenotype Reporter

and Notary Public within and for the State of New York.

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A P P E A R A N C E S:

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BY: WILLIAM MATHEWSON, ESQ.

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F E D E R A L S T I P U L A T I O N S

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IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that the sealing, filing and certification of the within deposition be waived;

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IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial;

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IT IS FURTHER STIPULATED AND AGREED that the transcript of this deposition may be signed before any Notary Public, with the same force and effect as if signed before a clerk or Judge of the Court;

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IT IS FURTHER STIPULATED AND AGREED that all rights provided to all parties by the F.R.C.P. cannot be deemed waived, and the appropriate sections of the F.R.C.P. shall be controlling with respect thereto.

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P R O C E E D I N G S

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THE REPORTER: The attorneys participating
in this deposition acknowledge that I am not
physically present in the deposition room and
that I will be reporting this deposition
remotely.

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They further acknowledge that, in lieu of an
oath administered in person, I will administer
the oath remotely.

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The parties and their counsel consent to this
arrangement and waive any objections to this
manner of reporting. Please indicate your
agreement by stating your name and your agreement
on the record.

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MR. SHIELDS: Agreed.

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MS. JONES: Agreed.

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MR. MATHEWSON: Agreed.

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1 Lieutenant Peter Nigrelli

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2 specifically related to police and dog encounter
3 training?

4 A I don't recall.

5 Q Do you recall at any point during your time with
6 the Buffalo Police Department when dog encounter
7 training changed?

8 A This was the first dog encounter training that I
9 recall having.

10 Q In 2017?

11 A Yes, sir.

12 Q Do you know why the training changed for you in
13 2017?

14 A I don't want to speculate, but I believe that the
15 atmosphere around dogs being discharged, dispatched upon
16 entries from the SWAT team was an issue locally and our
17 team at the time started changing some of our methods of
18 what we would do, so I am guessing that may have been
19 the reason why, sir, why this was brought forward and
20 pushed forward.

21 Q But you don't remember specifically?

22 A Correct.

23 Q There's different dates and different years that
24 people took the training, correct?

25 A Yes, sir.

22

1 Lieutenant Peter Nigrelli

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2 Q It looks like the training was implemented at
3 least in 2014, right, because that's when John Beyer
4 took it?

5 A Yes, sir, by looking at the dates, Lieutenant
6 Beyer would have been one of the first ones who took it
7 in 2014.

8 Q Do you know why or do you have any recollection
9 of anything that happened in 2014 that might have been
10 the reason for any change in training?

11 A No, sir.

12 Q And do you have any idea what the effect of the
13 new training was?

14 A Because I wear the two hats from the patrol and
15 tactical side, I would say that the news article that
16 you referred to from WGRZ, it's kind of on the not
17 misinformation side, but a lot of the dogs that were
18 shot prior would have been upon narcotic search warrants
19 or SWAT entries, not so much from a patrol aspect.

20 So I think with the training and the patrol
21 officers becoming aware of other things that were pushed
22 out for liability sake and the things that go with
23 training, that may have changed some of the tactics of
24 the patrol officer standpoint.

25 Q After the training was implemented, were less

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1 Lieutenant Peter Nigrelli

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2 dogs shot in Buffalo?

3 A Patrol wise, the amount of dogs get shot patrol
4 wise in the city and I still keep track of department
5 memos and things that come across, we don't have many
6 dogs getting shot in the city and I can tell you as the
7 SWAT end of it, from our entries, since I took over, we
8 have shot one dog in almost three full years.

9 Q And can you tell me if that was less dogs that
10 were shot than prior to this training being implemented
11 in 2014?

12 A Yes, absolutely.

13 Q So it sounds like since the training was
14 implemented, less dogs were shot in Buffalo?

15 A Yes, sir.

16 Q And, Lieutenant, do you remember anything
17 specific about the training, for example, if it was
18 developed by the City of Buffalo or some other police
19 agency?

20 A I don't recall if it was a City of Buffalo
21 training or if they re-sourced it out.

22 Q But if you had reviewed the training materials,
23 that would have been something that could have refreshed
24 your recollection about that?

25 A It may have.

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1 Lieutenant Peter Nigrelli

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2 (Plaintiff's Exhibit 3, Document, marked for
3 identification.)

4 Q Lieutenant, do you recognize this document, which
5 at the top says, "10.0 incidents involving animals"?

6 A Yes, that's from our Buffalo Police manual of
7 procedure.

8 Q Is that like a book of all of the policies and
9 procedures for the City of Buffalo Police Departments?

10 A Yes, sir.

11 Q Did you review this document prior to coming in
12 and preparing to testify today?

13 A I reviewed this for SWAT purposes, so we go over
14 this routinely because like I said, with our tactics, we
15 have totally changed how we work as far as dealing with
16 dogs, so we will go over this time and time with regard
17 to animal bite cases, but in regards to dealing with
18 animals.

19 Q You changed how you deal with dogs; is that what
20 you just said?

21 A Yes, we started in 2020 -- before I took over, it
22 was changed how we went over our process in technical
23 operations when dealing with dogs.

24 Q At first you said in 2020 and then you said
25 before you took over, so you took over in 2019, so it

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1 Lieutenant Peter Nigrelli

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2 will cooperate fully with personnel of the health
3 departments" and then it goes under dog control
4 violation summons, which number two it states, "if
5 firearm is used, it shall be reported via blue team."

6 Q Does this look like to you that it's a full
7 document or that it might be missing a page between 10.3
8 and then it skips to 10.5?

9 A It looks like it might be out of order.

10 Q This 10.3 looks different than the 10.3 above; is
11 that right?

12 A Yes, this is the first time that I am seeing this
13 screen.

14 Q From your knowledge of this specific police
15 department policy, do you know if this contains any
16 specific guidance about whether or not officers are
17 allowed to discharge their firearms at dogs?

18 A At the bottom it starts covering what the
19 supervisor's role would be.

20 Q That would be under 10.4C; is that what you're
21 referring to?

22 A Yes, sir.

23 Q So you're saying the supervisor shall take
24 whatever action is necessary to minimize danger to the
25 officers and to the public?

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1 Lieutenant Peter Nigrelli

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2 A Yes, sir.

3 Q Would it be fair to say that this document states
4 that the only time an officer can fire their weapon
5 without supervisor approval at a dog is to ward off an
6 attack; is that fair to say?

7 A Yes, sir.

8 Q But at the same time, they have to ensure that
9 there's no possibility that a stray bullet can strike a
10 person?

11 A Yes, sir.

12 Q Let's say there's a circumstance where there's a
13 dog running at an officer, but there are people in that
14 same room or yard where the officer is being charged by
15 a dog, would it be a violation of policy for the officer
16 to discharge a firearm in that circumstance?

17 A If there are persons nearby, it's close to the
18 MOP, but how you're describing it, it would be a
19 violation of the policy.

20 Q Let's say it's a backyard and there are two
21 officers in the backyard and the owner enters the
22 backyard with the dog, the dog sees the officers and
23 runs at them and the officers discharge their firearm
24 and the owner of the dog is downrange from the direction
25 where they are shooting at the dog, would that be a

1 Lieutenant Peter Nigrelli

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2 violation of the Buffalo Police Department policy?

3 A Under 10.4C 1B, that would be a violation under
4 the policy.

5 Q Let's say officers are inside of a house or an
6 apartment and the dog had been put into a bathroom and
7 officers are speaking with the person in the apartment
8 trying to get them to voluntarily leave for an arrest
9 and while they are speaking to that person, the dog
10 escapes the bathroom and the officers fire the weapon
11 while inside of the house with the person there, under
12 this policy would that be a violation?

13 A The description that you just gave, sir, yes.

14 Q The reason is because it's unsafe, right, because
15 someone can potentially be shot; is fair to say?

16 A Yes, any time that we fire our weapon, we are
17 responsible for that round, no matter what.

18 Q You agree that officers are never allowed to
19 unnecessarily endanger members of the public?

20 A Correct.

21 Q If there are two choices that can be made, the
22 officer always has to choose the safer option?

23 A Correct.

24 Q Are there any other portions of this specific
25 policy regarding discharging a firearm at a dog?

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1 Lieutenant Peter Nigrelli

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2 A I believe it's all covered up to this point.

3 Q "If a firearm is used, it shall be reported via
4 blue team", can you tell me what blue team is?

5 A The reporting system that we use for all use of
6 force incidents of the City of Buffalo Police
7 Department.

8 (Plaintiff's Exhibit 4, Article, marked for
9 identification.)

10 Q I am going to put up Exhibit 4 and then ask you
11 some questions about that.

12 A Okay.

13 Q Can you see that article on your screen, sir?

14 A Yes.

15 Q I will have you read the entire article.

16 A Okay.

17 Q This article is dated November 14th, 2017; is
18 that right?

19 A Yes.

20 Q One thing the article said is that members of the
21 narcotics and members of the SWAT team receive extensive
22 aggressive animal training, is there any additional
23 training that the SWAT team receives other than what we
24 spoke about regarding aggressive animals?

25 A We have a couple of different methods when we are